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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,814	01/11/2000	Juin-Jet Hwang	ATL-130RE	6144
28159 7590 08/25/2010 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 Briarcliff Manor, NY 10510-8001				
			EXAMINER RAMIREZ, JOHN FERNANDO	
			ART UNIT 3737	PAPER NUMBER
			MAIL DATE 08/25/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/481,814

Applicant(s)

HWANG ET AL.

Examiner

JOHN F. RAMIREZ

Art Unit

3737

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/15/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Specification

The disclosure is objected to because of the following informalities:

An abstract, specification, and claims filed by Applicant on 1/11/00 are in a single column format. Moreover, the drawings filed by applicant do not appear to be copies from the printed patent. However, MPEP 1411 states that "for reissue applications filed on or after November 7, 2000, 37 CFR 1.173(a) (1) requires that the application specification, including the claims, must be furnished in the form of a copy of the printed patent in double column format (so that the patent can be simply copied without cutting). Applicant is also required to submit a clean copy of each drawing sheet of the printed patent at the time the reissue application is filed (37 CFR 1.173 (a)(2)).

In other words, applicant is required to submit a full copy of the printed patent (including the front page).

The abstract, specification, claims, and drawings filed on 1/11/00 are objected to for failing to comply with 37 CFR 1.173(a)(1)(2) which requires applicant to submit the entire disclosure, including the abstract, specification, claims, etc in the form of a printed copy of the patent, in double column format and clean copies of each drawing sheet of the printed patent.

Appropriate correction is required.

Claim Objections

Claims 1-25 are objected to because of the following informalities:

Amended claims (see MPEP 1453 for details). A full listing with correct format would make the record clear. Applicant is requested to submit a full listing of claims with correct format. Note that, the claim listing in the appendix filed on 12/13/07 is not in proper format. All newly added reissue claims must be fully underlined. Furthermore, in an appendix filed on 12/13/07, newly added claim 5 among others has been identified as "original" (this claim identifier is only appropriate for patent claim), this is not correct. Appropriate correction is required.

Claims 1-25 are rejected under 35 U.S.C. 251 due to the following defective reissue guidelines.

1) Certificate of Corrections

Applicant has filed a certificate of correction (CC) (i.e. regarding its failure to claim the benefit of a provisional application) in parent application 08/728,118 on 11-24-98. This was approved on 2/2/99 in the parent application, On 1/9/06, applicant has filed an amendment to the specification to the reissue application to claim benefit of the provisional application, where it underlined the changes. However, certificate of

correction (CC) changes must be entered in the reissue application without bracketing or underlining, since the CC changes are retroactively a part of the original patent.

The amendment to the specification filed on 1/9/06 is objected to for failing to comply with 37 CFR 1.173(a)(1). The changes in the certificate of correction (CC) are part of the original patent therefore changes should be made without underlining. See MPEP 1411.01 for details.

2) Declaration

The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414. The declarations submitted 1/11/2000 and 1/09/2006 are defective because they do not specifically identify the "error" that applicants relied upon to support the reissue application. See MPEP 1414.

Claims 1-25 are rejected as being based upon a defective declaration reissue under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action. Applicants say they are broadening, but do not state what limitations they are broadening (i.e., what limitation is being dropped or amended to obtain a broader claim scope). Rather, applicants state in declarations filed 1/11/2000 and 1/09/2006 that the error arose from failing to specifically claim a limitation of using three or more pulses. Adding this limitation narrows the scope of the claimed invention.

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The declarations submitted 1/11/2000 and 1/09/2006 are defective because they do not state that the persons making the declaration acknowledge the duty to disclose to the Office all information known to be material to patentability as defined in 37 C.F.R. 1.56. See also 37 CFR 1.63.

The reissue oath/declaration filed with this application is defective because it fails to contain a statement that all errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 and MPEP § 1414.

"It is suggested that applicant submit an oath/declaration using form PTO/SB51 to better ensure all statutory requirements are met."

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct

from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-25 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1- 14 of U.S. Patent No. 5,951,478. Although the conflicting claims are not identical, they are not patentably distinct from each other because the mentioned patent claims are narrower in scope insofar as they are directed to harmonic response/non-linear effects resulting from an injected contrast-enhancing medium.

Allowable Subject Matter

Claims 1-25 would be allowable if applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with to overcome the rejection(s) under 35 U.S.C. 251, set forth in this Office action.

Claims 1-25 would be allowable if applicant's reply must either comply by timely filling a terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting, or specifically traverse each requirement not complied with to overcome the rejection, set forth in this Office action.

Claims 1-25 would be allowable if applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with to overcome the objections to the specifications and the claims, set forth in this Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. O'Donnell et al. (US 5,453,575) teach an apparatus and method are described for imaging blood flow from within a vasculature. Further disclose an ultrasound catheter probe carrying an ultrasound transducer array is inserted within a blood vessel; Uhlendorf et al. (US 5,410,516) teach a process for selective graphic representation and/or evaluation of the Doppler spectrum of objects limitedly resistant to

sonic intensity, nonlinear oscillations are produced in the examination area by irradiated ultrasonic waves and the signal is evaluated by an ultrasonic converter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN F. RAMIREZ whose telephone number is (571)272-8685. The examiner can normally be reached on (Mon-Fri) 7:00 - 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tse Chen/
Supervisory Patent Examiner, Art Unit 3737

/J. F. R./
Examiner, Art Unit 3737